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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,208	05/19/2005	Steve C Benesi	SCB-03-1-PCT-US	3477

7590 12/08/2009

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EXAMINER	
POPOVICS, ROBERT J	
ART UNIT	PAPER NUMBER
1797	
MAIL DATE	DELIVERY MODE
12/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/501,208	BENESI ET AL.	
	Examiner	Art Unit	
	/Robert James Popovics/	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *39 and 41-74* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *39 and 41-74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

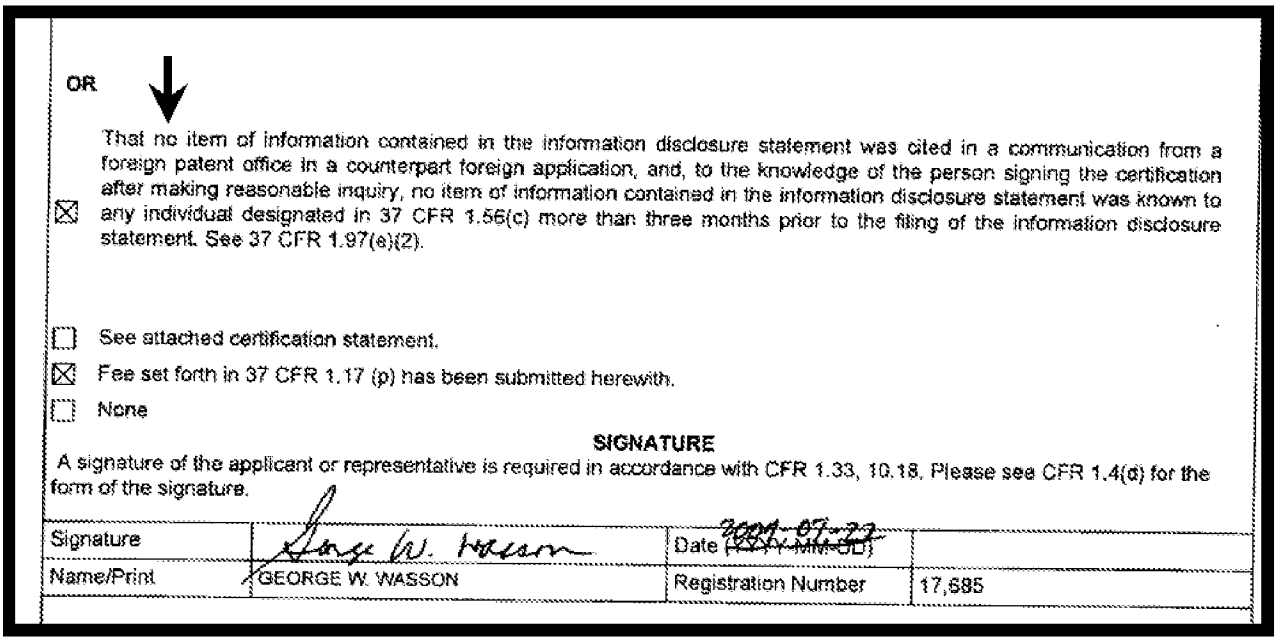
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The **listing of references in the specification** is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, **they have not been considered**.

The IDS of **July 24, 2009** has not been considered because the certification statements are inconsistent:



OR

☒ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

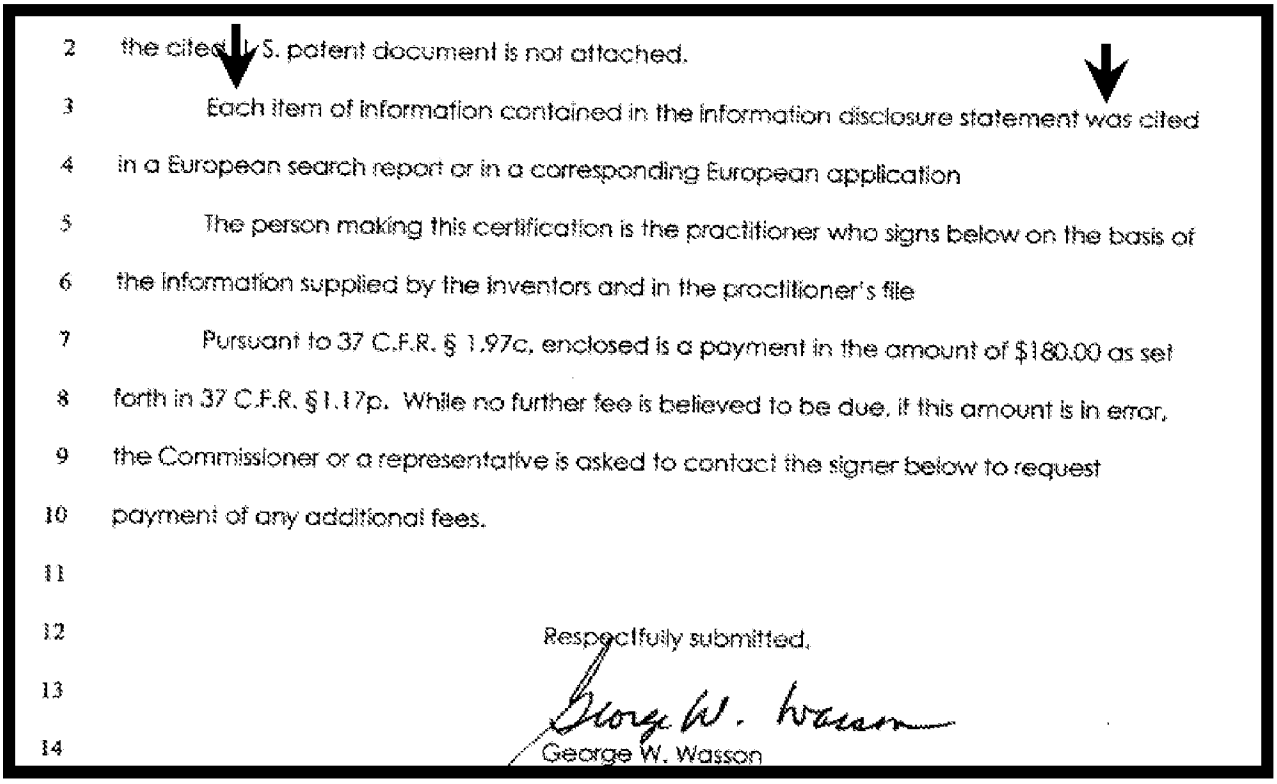
☐ See attached certification statement.
☒ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.
☐ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	George W. Wasson	Date (YYYY-MM-DD)	2009-07-22
Name/Print	GEORGE W. WASSON	Registration Number	17,685

Versus



the cited U.S. patent document is not attached.

Each item of information contained in the information disclosure statement was cited in a European search report or in a corresponding European application

The person making this certification is the practitioner who signs below on the basis of the information supplied by the inventors and in the practitioner's file

Pursuant to 37 C.F.R. § 1.97c, enclosed is a payment in the amount of $180.00 as set forth in 37 C.F.R. §1.17p. While no further fee is believed to be due, if this amount is in error, the Commissioner or a representative is asked to contact the signer below to request payment of any additional fees.

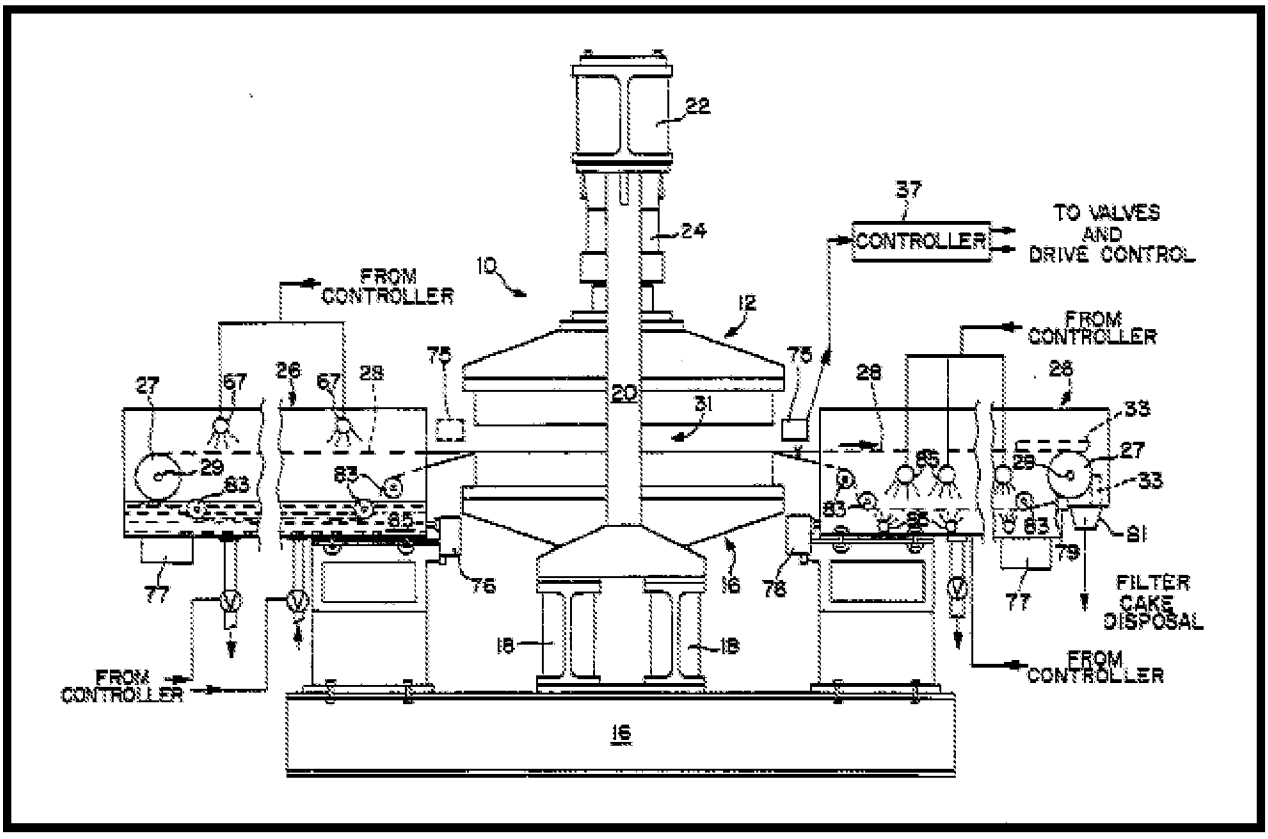
Respectfully submitted,

George W. Wasson

The first statement above asserts that **"no item"** was cited in a communication from a foreign patent office. The second says that **"each"** was cited in a "European search report or corresponding European search report," while the Remarks indicate them to have been "cited in a corresponding application pending in the European Patent Office. Correction and/or clarification is required.

Claim Rejections - 35 USC § 102/103

Claims **39** and **41-74** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over ***Benesi (US 5,462,677)***:



Claims **39** and **41-74** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over ***Benesi (US 6,159,359)***. See for example, Figures 1-11. Also, the following teachings are noted:

> (23) The filter modules having means for introducing slurry materials, wash materials and gas pressure materials adaptable for increases of pressure and flow to optimize operation as resistance to flow of slurry, cake wash or dewatering increases.
>
> (24) Means for sensing and adjusting optimum operating conditions (flow meters, totalizers, fixed volume tanks, pressure switches, transmitters, variable drive pumps with capabilities of "ramping up" to meet slurry or cakewash requirements).

(25) The modules may be designed to provide optimum chamber depth and configuration and inlet configuration to optimize operation of each slurry.

(26) Means for introducing materials in equal or higher pressure until free liquid has cleared filtered solids, so as not to interrupt flow through solids or to disturb the uniform path of resistance in the cake.

(27) The modules can be designed with **input dried compressed air, compressed gas, superheated steam, hot dry air or gas, or a combination of these materials**.

(28) The modules and their controls can be designed to provide multiple wash/leach/dewatering operations in one filter cycle.

(29) The control of the units can be set by flow threshold through cake, by pressure of **gas flow through the filter cake**, **by time of gas flow through the filter cake, by volume of gas flow through the cake as means for determining when a optimum dry filter cake has been produced**.

(30) The individual filter plate members may be designed to provide the optimum filter chamber depth for different input slurry materials with the objective of producing a desired thickness of filter cake.

(31) The control system can be designed to introduce the slurry materials at a desired pressure and with input stopped when a predetermined pressure has been achieved, the cakewash liquid at a pressure higher than the slurry input pressure and terminated when the back pressure reaches a predetermined pressure, and the **blowdown gas** at a greater pressure than the cakewash pressure and terminated when **blowdown gas** has driven the wash liquid out of the cake and a **desired dryness** has been achieved.

The numbered paragraphs are of no particular significance, being generated with the output of the search tool.

Claim Rejections - 35 USC § 103

Claims **39** and **41-74** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of ***Benesi (US 5,462,677)*** and ***Benesi (US 6,159,359)***. It is submitted that any claim limitations that arguably may not be found in either one of these references would be found in the other, and that incorporation of the limitation in the other would have been obvious at the time the invention was made.

Response to Arguments

Applicant's arguments filed **July 24, 2009** have been fully considered but they are not persuasive. Applicants have not identified any structural differences that could serve to distinguish over the applied art. Moreover, the applied art expressly discloses the use of "hot dry" or superheated steam:

> (27) The modules can be designed with **input dried compressed air, compressed gas, superheated steam, hot dry air or gas, or a combination of these materials**.

And control thereof:

> (29) The **control** of the units can be set by flow threshold through cake, **by pressure of gas flow through the filter cake**, **by time of gas flow through the filter cake, by volume of gas flow through the cake as means for determining when a optimum dry filter cake has been produced**.

Moreover, the control of pressure indirectly controls the temperature!

It is argued:

> identify? It is important to the present claimed invention that the filter chamber can be controlled and maintained in temperature and pressure. Prior Benesi filter apparatus have illustrated elements that are capable of forming a desirable filtration chamber, but none of the earlier Benesi applications have disclosed the maintaining of controlled temperature and pressure within the chamber when dry hot gas is used to further separate liquids and solids from a slurry. In that regard, the disclosure of the present invention of the ability to use hot gasses that are capable of being controlled in any phase change from gas to liquid by recognizing the temperature or pressure for such a phase change, and then the control of a temperature or pressure within the filtration chamber to assure that the hot gas remains in a desired form for the filtration process being performed.

The **"disclosure"** and discussion of phase change could not be located in the originally filed specification. Those skilled in the art are familiar with standard conventional steam tables and the saturated and superheated regions thereof. The consequences of using each type of steam would have been readily apparent to those skilled in the art.

Prior Art of Interest

Two patents to **Koch** are now made of record. They disclose the use and benefits of superheated steam on cake treatment. Also, see the patent to **Bott**.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to /Robert James Popovics/ at telephone number (571) 272-1164.

/Robert James Popovics/
Primary Examiner
Art Unit 1797